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Agenda items 5 and 9

STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

CONSIDERATION OF THE FINAL OUTCOME OF THE WORLD CONFERENCE, TAKING INTO CONSIDERATION THE PREPARATORY WORK AND THE CONCLUSIONS OF THE REGIONAL MEETINGS

Note verbale from the Permanent Mission of Canada dated 23 April 1993

The Canadian Mission to the United Nations Office at Geneva presents its compliments to the Secretary-General of the World Conference on Human Rights and has the honour to submit the attached Canadian paper on the World Conference of Human Rights. This paper outlines a range of possible principles, reforms and initiatives which have been identified with a view to stimulating discussion on desirable outcomes for the Conference. It does not represent a definitive statement of Canada's position which will reflect, inter alia, results of consultations held within Canada on the basis of the attached paper.

The Canadian Mission requests that this paper be made an official document of the Preparatory Committee of the World Conference on Human Rights.

The Canadian Mission takes this opportunity to renew the assurances of its consideration to the Secretary General of the United Nations.

GE.93-13038

WORLD CONFERENCE ON HUMAN RIGHTS

The World Conference on Human Rights, which will take place in Vienna, Austria from 14 to 25 June, 1993, provides a unique opportunity to review progress in the international promotion and protection of human rights since the adoption of the Universal Declaration (1948), and identify actions which should be taken in the years ahead to strengthen and build on those achievements.

The essential challenge facing the United Nations in this regard is set out in the Secretary General's recent report on the Work of the Organization: that is the development of "an integrated approach to the objectives of peace, democracy and human rights and the requirements of development". Like the Secretary General's earlier "Agenda for Peace", this report underscores the crucial role of human rights as a fundamental UN Charter concern in its own right and an essential integral element of the UN's work to promote economic development and enhance global peace and security.

The task for the World Conference is to ensure that the international community's human rights machinery is equipped to fulfil its responsibility in the service of these fundamental goals as we approach a new millennium.

There is no shortage of valuable ideas to this end. However, overly ambitious efforts to overhaul the system or secure agreement on a large number of highly detailed proposals are likely to prove beyond the grasp of a single conference. A more realistic goal - emulating practice at recent global conferences on environment, children and women - would be to adopt an "action plan" recommending some reforms and setting in train work and further negotiations on others.

This paper outlines a range of possible principles, reforms and initiatives which have been identified with a view to stimulating discussion on desirable outcomes for the Conference, (i.e. it is not an official position paper).

These ideas are organized under four basic inter-related themes:

- realigning the place of human rights in the UN system to reflect its central, Charter importance;
- reaffirming commitment to universal human rights principles;
- strengthening international human rights monitoring machinery;
- encouraging integration of human rights, democracy and development.

This basic structure is designed with a view to identifying opportunities to advance a range of major priorities within the context of the Conference agenda adopted by the 47th session of the General Assembly. These priorities include increased implementation of universal human rights standards and advancement of the rights of women, indigenous rights and the role of NGOs. Such objectives will be central to the Canadian approach to the World Conference.

1. Realigning the place of human rights in the UN system to reflect its relative importance

While the UN Human Rights Programme responds to one of the three major goals of the UN Charter, it often appears to operate in isolation from important activities in other spheres (eg, peace and security) which could benefit from closer integration with the human rights machinery. Furthermore the Programme commands only a small proportion of the organization's total resources.

Against this background, the World Conference might:

- recommend that the Secretary General appoint a High Commissioner or Special Commissioner for Human Rights (with independent authority and powers of initiative and coordination that would complement and strengthen, rather than detract from, the existing structure of special rapporteurs and other mechanisms);

- call on the Secretary General and the Security Council to ensure effective deployment of established human rights machinery where appropriate in support of Security Council-mandated peacemaking/keeping/building operations (as those terms are described in the "Agenda for Peace");

- call on the Secretary General to ensure prominent and effective participation of the UN Human Rights Centre in early warning coordination mechanism chaired by the UN Department of Humanitarian Affairs and any other early warning processes developed pursuant to the "Agenda for Peace". (Canada has led efforts in the UN to develop and strengthen such mechanisms to avert population displacements and refugee flows resulting from human rights abuses);

- pledge all governments, and call on the General Assembly, to ensure adequate financing for the U.N. Human Rights Programme by setting a percentage target for funding from the UN general budget (current figure 0.7%);

- call on the Secretary General and Heads of Specialized Agencies (through the Administrative Committee on Coordination (ACC)), as well as regional organizations (e.g. OAS, CSCE, OAU) to improve cooperation and coordination of human rights activities undertaken by the United Nations, Specialized Agencies, and regional organizations;

- similarly, the Secretary General and the Heads of the Commonwealth and la francophonie should be encouraged to increase cooperation and coordination of their respective activities in the sphere of human rights.

2) Improving commitment to universal human rights principles

During the last 40 years, much effort has been devoted to the establishment of basic human rights principles and the setting of human rights standards. The major challenge now is to promote the full realization of these rights. To this end, the World Conference might:

- reaffirm the commitment of all UN members to the basic principles set forth in the Universal Declaration on Human Rights (1948);

- commit the international community to universal ratification by the year 2000 of the two human rights Covenants - civil and political, and economic, social and cultural - and the Optional Protocol to the ICCPR which recognizes the right of citizens to seek international redress for alleged violations of their human rights;

- affirm a global commitment to the full realization of the human rights of all women as well as men. Universal ratification of the Convention on the Elimination of all forms of Discrimination against Women and elimination of all reservations thereto represent crucial aims in this regard and should also be achieved by the year 2000;

- affirm the UN's commitment to promotion and protection of the rights of indigenous people: The International Year of Indigenous People presents an historic challenge in this regard;

- encourage completion of ongoing standard setting where still needed, notably:

  - Declaration on the Rights of Indigenous People;

  - Declaration on Violence Against Women: assuming completion of a draft this year by the Commission on the Status of Women, this should be adopted by this year's General Assembly;

  - Draft standard rules on the equalization of opportunities for disabled persons: encourage adoption by this year's General Assembly;

  - Declaration on the Right to Promote Human Rights;

  - basic standards for the development and operation of independent national human rights institutions (cf Paris Principles, to be reviewed by next session of UNGA);

- reaffirm that the responsibility for implementation and promotion of human rights devolves primarily on governments;

- affirm the essential role of the NGO community in the international promotion and protection of human rights and pledge to ensure concomitant NGO accessibility to, and influence in, international human rights organs;

- pledge the international community to improve popular understanding of basic human rights principles through better education, building on the outcome of the Montreal UNESCO Conference.

3) Strengthening international human rights monitoring machinery

The full realization of human rights requires that the mechanisms, programmes and institutions which have been developed to monitor and encourage full respect for international human rights obligations be further strengthened and made more effective. In addition to the measures outlined in section 1 above, the World Conference could:

- encourage the human rights treaty bodies to continue their collaboration in consolidating and streamlining human rights reporting obligations with a view to enhancing their effectiveness and facilitating government compliance with the treaties. The Committee on Elimination of Discrimination Against Women should play an integral role in this process;

- propose measures to strengthen the rapporteur/working group system by, inter alia, ensuring coverage of violations not addressed by present mechanisms, empowering mechanisms to take the initiative in addressing urgent situations and to follow-up on unresolved concerns addressed in their reports, and increasing awareness and the impact of the work of rapporteurs and working groups. The latter objective could be advanced by consolidating their findings in an annual report of the Secretary General on the state of human rights worldwide;

- set in train further efforts to make the treaty body and rapporteur/working group structure more sensitive to particular human rights abuses as they affect women and vulnerable groups (children, indigenous, minorities, disabled). Gender disaggregated information and analysis should figure in all treaty body and other monitoring exercises;

- pledge the international community to expedite work on creation of an international criminal court (as mandated by the Sixth Committee).

4) Encouraging integration of human rights, democracy and development

It is becoming increasingly evident that the full realization of human rights requires greater recognition of the vital inter-relationship between human rights, democracy and development. While action should continue to be taken with respect to serious cases of human rights abuses, countries which are committed to improving their capacity to promote and protect human rights should receive the encouragement and assistance of the international community. With this in mind, the World Conference could:

- reaffirm the principles of the Declaration on the Right to Development: the commitment of all states and the international community to strive for the realization by all individuals of their economic, social and cultural rights as well as their civil and political rights;

- pledge all governments and the international community to improve investment in the infrastructure necessary for administration of justice and protection of human rights, including through the development of independent national institutions for the promotion and protection of human rights;

- pledge all governments to ensure conditions exist by which NGOs can flourish and play a vital role in the development of societies and in the promotion of human rights and fundamental freedoms;

- revitalize international technical assistance programmes directed specifically at development of human rights infrastructure in developing countries;

- recognize the problem of human rights abuses as a major contributing factor to mass irregular migration of persons from, and within, the developing world;

- set in train mechanisms for increased cooperation between human rights practitioners in developed and developing countries, notably through enhanced contacts between national human rights institutions;

- call on the Secretary General to improve the effectiveness of the role played by the United Nations through an expanded and reconstituted Advisory Services programme under the UN Centre for Human Rights;

- encourage a closer working relationship between the UN Centre for Human Rights and the United Nations Development Programme (UNDP) and other UN agencies, including UNIFEM and INSTRAW,

ensuring integration of human rights considerations into UN system development programmes;

- encourage similar cooperation in this sphere among UN agencies, regional organizations and organizations such as the Commonwealth and la francophonie;

- underline the responsibility of human rights monitoring bodies (treaty bodies such as CEDAW and thematic rapporteurs and working groups) to address, in the course of their work, needs and opportunities for technical assistance in this area.

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REPORT ON OTHER MEETINGS AND ACTIVITIES

Letter dated 23 April 1993 from the Commonwealth Secretary-General addressed to the Assistant Secretary-General for Human Rights

When I was in Geneva early last month, I told you that the Commonwealth Secretariat would hope to submit to the fourth session of the Preparatory Committee a paper on its various activities in pursuance of the objectives of the World Conference. I am therefore pleased to forward the attached paper which I hope you will find possible to distribute to the participants in the final phase of preparations for the June Conference in Vienna.

(Signed): Emeka Anyaoka
Secretary-General

THE COMMONWEALTH SECRETARIAT AND THE PROMOTION OF HUMAN RIGHTS: PRESENT ACTIVITIES AND SCOPE FOR FUTURE ACTION

A. BACKGROUND

1. This paper examines how the Secretariat of the Commonwealth*, in promoting the association's own values and priorities, seeks to support global efforts to establish respect for democracy and human rights. The paper has benefited from the views expressed at two consultative meetings held in London in February 1993 with representatives from Commonwealth High Commissions and members of non-governmental organisations, and in Geneva in March 1993 with Commonwealth Permanent Representatives and others from Commonwealth Permanent Missions, officials from UN specialised agencies, and members of Commonwealth professional associations and non-governmental organisations. The London meeting was held to ascertain how the Commonwealth could translate into practical programmes the values and priorities of the Harare Declaration. The Geneva meeting was held specifically in the framework of the World Conference on Human Rights to make a Commonwealth contribution to the preparatory process.

B. THE GLOBAL CONTEXT

2. The World Conference on Human Rights is being convened against a global backdrop which in many ways augurs well for the efforts being made to develop a more effective UN human rights machinery and to establish conditions worldwide which ensure better understanding and respect for human rights. Significant progress has been made in strengthening the international human rights regime since the adoption of the Universal Declaration of Human Rights in 1948, and the coming into force of the International Covenants on Human Rights. Moreover, concern for human rights has permeated the international and national communities at various levels.

3. A growing emphasis on respect for human rights has, in fact, become one of the essential elements of the new global political agenda. At the international level, human rights issues have become an important factor in the foreign policy considerations of many countries, including in aid programmes. These have led to several donor governments and agencies, not without controversy, invoking political conditionalities based inter alia on the human rights records of recipient countries.

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* The fifty member states of the Commonwealth are:

Antigua & Barbuda, Australia, Bahamas, Bangladesh, Barbados, Belize, Botswana, Britain, Brunei Darussalam, Canada, Cyprus, Dominica, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, St Kitts & Nevis, St Lucia, St Vincent & Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad & Tobago, Tuvalu, Uganda, Vanuatu, Western Samoa, Zambia, Zimbabwe.

As a result, concepts of national sovereignty and non-interference in the internal affairs of states are being redefined.

4. Concurrently, at the national level, a resurgence of popular aspirations for democracy and fundamental freedoms has been taking place, with coups d'êtats and military regimes falling into disfavour and many states moving from one-party rule to multi-party democracy. Non-governmental organisations and community groups have become increasingly active in articulating human rights concerns and campaigning for basic human rights, not only for victims of human rights abuses but also for politically and economically disadvantaged groups. Women's groups in particular are intensifying their efforts to gain recognition of women's rights as human rights.

5. These profound changes, within a relatively short period, have given rise to severe strains and stresses, including the resurgence of ethnic and religious differences which threatens the integrity and even survival of some states. They have in many cases led to systematic abuses of human rights. In such upheavals, women and children especially have been victims of human rights abuses through increasing acts of violence against them. Moreover, poverty remains a major world problem and as such continues to create an environment in which respect for basic human rights cannot be fully achieved. Women who are heads of household and maintain households are among the poorest because of restricted access to resources and services.

6. Thus, while human rights issues have become increasingly compelling, both the international and national systems have been found to be wanting in the effective protection of human rights in all their aspects. Despite the proliferation of international treaties on human rights and related human rights bodies, monitoring and implementation mechanisms still need to be strengthened. In some respects, too, these require revision to ensure that the reporting obligations imposed are not unnecessarily onerous. At present, a number of states are in default of their reporting obligations largely by reason of scarcity of professional resources, with the result that the reporting mechanism is not proving as effective as had been hoped. Moreover, existing divergences regarding human rights concerns and priorities need to be resolved. To achieve a coherent international approach to human rights issues, there must be a consensus as to the universal applicability of international human rights norms to diverse societies and cultures. Similarly, the dichotomy between civil and political rights on the one hand and economic, social and cultural rights on the other needs to be resolved as do the differences centering on the question of rights of individuals, communities and states, which have emerged particularly in relation to the Right to Development.

7. On balance, however, the forces favouring world-wide respect for human rights are today stronger than ever, reinforced by the efforts of a host of different groups and organisations at various levels.

8. The Commonwealth's contribution to the global promotion of human rights is to be viewed in this context. The Commonwealth, through the promotion of its fundamental values as defined in the **Harare Commonwealth Declaration (1991)** (see Annex A), seeks to advance inter alia the global agenda on human rights. The Harare Declaration together with the **Singapore Declaration of Commonwealth Principles (1971)** (see Annex B) reflect statements of principle and intent reached by consensus by Commonwealth Heads of Government which attach priority to the promotion of democracy, human rights and sustainable development. The Commonwealth Secretariat in carrying out its mandate has sought to follow a practically-oriented promotional role, which is based on a clear recognition of the inter-linkages between political, economic and social development.

C. THE PROMOTION OF COMMONWEALTH FUNDAMENTAL VALUES

The Commonwealth's Consensual Approach

9. In addressing the **promotion of its fundamental values**, the Commonwealth has sought to employ a strategy which is based on an essentially consensual approach. In the forty-three years of its existence, the modern Commonwealth has developed its particular operational style building on historical ties, similar institutions and use of a common language. Its particular strengths lie in the process of regular informal consultations, including at the highest levels, with decisions being taken on the basis of consensus; a network of informal ties amongst professional groups and non-governmental organisations; a non-confrontational approach; an emphasis on cooperative efforts through regular networking and contacts rather than one-way delivery; practical programmes based on needs identified by the members themselves; and efforts to foster South-South exchanges of expertise.

10. When approaching potentially divisive issues, Commonwealth governments have generally sought to define common ground through a process of consultation, and then to extend its scope. At the same time, the Commonwealth recognises the critical role of non-governmental fora, and of non-governmental organisations, as well as the importance of the support of local communities for the development and implementation of appropriate policies and programmes.

11. Such an approach has, on occasions, been complemented by the appointment of small, independent expert groups - their composition largely reflective of the Commonwealth's diversity - which have helped generate informed public and governmental debates on specific issues of contemporary importance.

12. The Commonwealth's consensual approach has in practice often meant that confrontation has been minimised, and a dialogue fostered that favours free and frank exchange of views rather than uncompromising statements of position, often leading to broad agreement on issues. On occasions, this results in the Commonwealth being able to contribute to the resolution of politically sensitive issues.

Implementing the Harare Mandate

13. Since the promotion of democracy and human rights is a multi-sectorial concern with political, economic, social and cultural dimensions, the Commonwealth Secretariat has sought to adopt an integrated approach in carrying out its mandate. Intra-Commonwealth development cooperation activities in key sectors together with Commonwealth strategies for promoting more effective global partnerships in pursuing sustainable development, seek to provide greater content and meaning to the promotion of its fundamental values. In the particular areas of democracy and human rights, the Secretariat concentrates on those activities where it is best placed to make an impact. These include:

(i) National Institution and Capacity-Building

(a) Since 1990, the Commonwealth Secretariat has intensified its efforts, at the request of member states, to assist in **strengthening the capacity of key institutions** such as parliaments, public service commissions, electoral commissions, judiciaries, statutory human rights bodies and women's bureaux, as well as other organisations which sustain democracy and civil society and help to promote and protect human rights. In seeking to assist member countries in this area, the Secretariat has been careful to adopt a supportive and consensual role, working with and in support of relevant sectors of a member country in devising strategies which meet local needs and have local support. The assistance is essentially of a practical nature aimed at developing self-sustaining local institutions and processes.

(b) With this emphasis on practical assistance, the Commonwealth has, for example, developed what is now widely recognised as an effective system of **election monitoring** which is an important element in the setting up of a democratic system. As a result of its experience in observing nine major national elections over the last two and a half years, the Commonwealth has been stressing the importance of action to create an environment conducive to the democratic process well ahead of polling day. Certain benchmarks have been identified which include a constitution that makes for a representative and accountable government; electoral laws that ensure proper registration of voters; fair nomination procedures; conditions that allow a secret ballot; adequate access to the publicly-owned media for contesting parties; and well-trained and vigilant political party agents whose work is complemented by national and international observers. Finally and most importantly, it is recognised that democratic structures cannot be imposed from outside but must be sustained from within, and that attention needs to be paid to the development of an endogenous democratic culture. This is a complex, dynamic and demanding process.

(c) Another significant Commonwealth involvement in the area of furthering democratic development and human rights through institutional change has been in South Africa. The Commonwealth has had a long involvement in the **campaign against apartheid**. This has ranged from active pursuit of sanctions against apartheid in South Africa to the decision at Harare by Commonwealth leaders that the association should render whatever practical assistance it can to the negotiating process in South Africa. Following the UN Security Council Resolution 772 of August 1992, the Commonwealth presently has a Group of Observers in South Africa, working alongside monitors from the UN, the OAU and the EC in monitoring the violence that threatens to undermine progress towards the establishment of a non-racial, democratic government in South Africa. It has also been assisting the efforts of various professional and other groups who have been fostering dialogue on the shape and structures of the new South Africa.

(d) The establishment and strengthening of **national human rights institutions** is being widely recognised as an important part of national mechanisms for the promotion and protection of human rights. The Secretariat has sought to play a facilitating role by encouraging discussions between governments and non-governmental groups on national strategies for human rights aimed at identifying structures and mechanisms necessary for the effective promotion and protection of human rights. The role that NGOs and community-based organisations (CBOs) can play in co-operation with national institutions is also being examined. As more than

half of the Commonwealth members are small states, special attention is being given to the specific institutional needs of such countries.

(ii) Promoting Information Sharing and Exchange of Experience

(a) The Commonwealth Secretariat has sought to facilitate **cross-fertilisation of ideas,** experiences, expertise and the dissemination of human rights educational materials as a way of supporting and strengthening national (including community and grass-roots activities) as well as regional efforts for the promotion of democracy and human rights. It has sought to achieve this in a variety of ways. It has, for example, sent experienced constitutional and electoral experts to emerging multi-party democracies in the Commonwealth to assist in the drafting of new constitutions based on democratic principles, and to help establish institutions and practices vital to the proper functioning of a democratic system.

(b) Towards the same goal of **strengthening democratic systems,** the Commonwealth Secretariat has brought together senior officials and judges in member countries to examine ways of promoting judicial review of administrative action. This exercise has produced a landmark set of guidelines for such reviews (Annex C). Significantly, this influenced a member government to announce a full-scale review of the law with a view to providing easier access to the courts for citizens aggrieved by government decisions.

(c) The Secretariat has also sought to assist in the **domestic implementation of international human rights norms,** through the holding of colloquia with senior judges. These have had a direct impact on court decisions in a number of Commonwealth countries and beyond. The scope of the colloquia is being extended to cover the domestic implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women.

(d) On human rights, in addition to promoting useful exchange in areas such as institution-building as mentioned in the previous section, the Secretariat seeks to pay special attention to the rights and survival concerns of **vulnerable social groups,** which include female-headed and women-maintained households, working and street children, migrant workers, refugees and displaced families and indigenous and tribal communities. In this area, the Secretariat seeks to provide much-needed and meaningful assistance through strengthening networks amongst those engaged in improving the conditions of such vulnerable groups; dissemination of information on appropriate and effective initiatives for establishing access of disadvantaged groups to basic material and social needs; and making available a range of training materials and techniques.

(e) Commonwealth exchanges at the regional level have also addressed, at the request of member countries, issues of concern which require **regional co-operation** for their resolution. In all such instances, the Secretariat has sought to ensure that the genuine concerns of communities have been represented through the presence of professional and non-governmental organisations. Such efforts have contributed towards a better understanding of common problems and sometimes to closer co-operation between governments and non-governmental groups in devising ways of dealing with particular problems.

(iii) Training

(a) Commonwealth programmes have particularly in recent years focused on education and training activities in democratic practices and human rights with the objective of **promoting just and honest government and the development of civic society.** A wide range of human rights educational and training material is being developed for the use of officials, including those from foreign ministries, women's affairs, labour, police, prison authorities as well as the judiciary. Particular attention has been paid to women's human rights concerns and resource material has been produced on the problems of violence against women and child abuse.

(b) **Training trainers** has been a part of this educational activity. Programmes have involved various government ministries, parliamentary and electoral institutions, trade unions, the media, etc. However, rather than focusing on direct training, the Secretariat is seeking to play a catalytic role and help establish the importance of such training through pilot workshops and the involvement of key institutions in member countries.

(c) The Secretariat is providing specialised training to a number of member states' personnel responsible for **reporting obligations under international human rights treaties** as well as regional treaties. Here again the Secretariat has pursued its well-tried strategy of bringing experienced practitioners together with newcomers to the field and has thereby promoted a fruitful learning process. The Commonwealth Training Manual on the reporting procedure of the Women's Convention has proved to be a useful resource and a similar manual is being developed for the reporting procedure under the African Charter.

14. In summary, the Commonwealth commitment to the promotion of its fundamental values including democracy and human rights, has been reinforced and given fresh impetus by the mandate of the Harare Declaration. In reaching common positions such as those outlined in the Declaration, the Governments of the fifty member states of the Commonwealth have, in keeping with their tradition, pursued a consensual approach.

15. In giving practical expression to this shared commitment, the Commonwealth focus has been and will continue to be on those areas of activity where it can make the most effective and meaningful contribution. Thus, in its promotion of democracy and human rights, the Commonwealth Secretariat is able to call on a wealth of available experience in its ongoing efforts to assist member governments with the establishment and development of national institutions. The Secretariat is also well placed to facilitate the sharing of information, ideas and experience, and specialised training, among its member countries. Various Commonwealth fora, ranging from the biennial Heads of Government Meetings to those of Ministers and officials, plus workshops and seminars, provide ongoing opportunities for such exchanges.

16. In participating in the World Conference process, the Commonwealth seeks to share its experiences in the promotion of democracy and human rights with the UN and the global community at large in order to further common goals.

ANNEXES

A - The Harare Commonwealth Declaration (Zimbabwe, 1991)

B - The Declaration of Commonwealth Principles (Singapore, 1971)

C - Lusaka Statement on Government under the Law (Zambia, 1992)

ANNEX - A

THE HARARE COMMONWEALTH DECLARATION

The Commonwealth has mapped out a course which will take the 50-member association into the next century. Heads of Government issued this historic declaration of purpose, which includes a 10-point pledge, during their meeting in Harare, Zimbabwe, in 1991.

To meet new challenges, the Commonwealth will draw on its unique strengths and character. These are rooted in its shared ideals, common traditions and language, in its membership of 1.4 billion people on every continent and major ocean and its ability to fashion a sense of common purpose out of diversity.

The Heads of Government of the countries of the Commonwealth, meeting in Harare, reaffirm their confidence in the Commonwealth as a voluntary association of sovereign independent states, each responsible for its own policies, consulting and co-operating in the interests of their peoples and in the promotion of international understanding and world peace.

2. Members of the Commonwealth include people of many different races and origins, encompass every state of economic development, and comprise a rich variety of cultures, traditions and institutions.

3. The special strength of the Commonwealth lies in the combination of the diversity of its members with their shared inheritance in language, culture and the rule of law. The Commonwealth way is to seek consensus through consultation and the sharing of experience. It is uniquely placed to serve as a model and as a catalyst for new forms of friendship and co-operation to all in the spirit of the Charter of the United Nations.

4. Its members also share a commitment to certain fundamental principles. These were set out in a Declaration of Commonwealth Principles agreed by our predecessors at their Meeting in Singapore in 1971. Those principles have stood the test of time, and we reaffirm our full and continuing commitment to them today. In particular, no less today than 20 years ago:

we believe that international peace and order, global economic development and the rule of international law are essential to the security and prosperity of mankind;

we believe in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives;

we recognise racial prejudice and intolerance as a dangerous sickness and a threat to healthy development, and racial discrimination as an unmitigated evil;

we oppose all forms of racial oppression, and we are committed to the principles of human dignity and equality;

we recognise the importance and urgency of economic and social development to satisfy the basic needs and aspirations of the vast majority of the peoples of the world, and seek the progressive removal of the wide disparities in living standards amongst our members.

5. In Harare, our purpose has been to apply those principles in the contemporary situation as the Commonwealth prepares to face the challenges of the 1990s and beyond.

6. Internationally, the world is no longer locked in the iron grip of the Cold War. Totalitarianism is giving way to democracy and justice in many parts of the world. Decolonisation is largely complete. Significant changes are at last under way in South Africa. These changes, so desirable and heartening in themselves, present the world and the Commonwealth with new tasks and challenges.

7. In the last twenty years, several Commonwealth countries have made significant progress in economic and social development. There is increasing recognition that commitment to market principles and openness to international trade and investment can promote economic progress and improve living standards. Many Commonwealth countries are poor and face acute problems, including excessive population growth, crushing poverty, debt burdens and environmental degradation. More than half our member states are particularly vulnerable because of their very small societies.

8. Only sound and sustainable development can offer these millions the prospect of betterment. Achieving this will require a flow of public and private resources from the developed to the developing world, and domestic and international regimes conducive to the realisation of these goals. Development facilitates the task of tackling a range of problems which affect the whole global community such as environmental degradation, the problems of migration and refugees, the fight against communicable diseases, and drug production and trafficking.

9. Having reaffirmed the principles to which the Commonwealth is committed, and reviewed the problems and challenges which the world, and the Commonwealth as part of it, face, we pledge the Commonwealth and our countries to work with renewed vigour, concentrating especially in the following areas:

* the protection and promotion of the fundamental political values of the Commonwealth:

  - democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government;

  - fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief;

* equality for women, so that they may exercise their full and equal rights;

* provision of universal access to education for the population of our countries;

* continuing action to bring about the end of apartheid and the establishment of a free, democratic, non-racial and prosperous South Africa;

* the promotion of sustainable development and the alleviation of poverty in the countries of the Commonwealth through:

  - a stable international economic framework within which growth can be achieved;

  - sound economic management recognising the central role of the market economy;

  - effective population policies and programmes;

  - sound management of technological change;

  - the freest possible flow of multilateral trade on terms fair and equitable to all, taking account of the special requirements of developing countries;

  - an adequate flow of resources from the developed to developing countries, and action to alleviate the debt burdens of developing countries most in need;

  - the development of human resources, in particular through education, training, health, culture, sport and programmes for strengthening family and community support, paying special attention to the needs of women, youth and children;

  - effective and increasing programmes of bilateral and multilateral co-operation aimed at raising living standards;

* extending the benefits of development within a framework of respect for human rights;

* the protection of the environment through respect for the principles of sustainable development which we enunciated at Langkawi;

* action to combat drug trafficking and abuse and communicable diseases;

* help for small Commonwealth states in tackling their particular economic and security problems;

* support of the United Nations and other international institutions in the world's search for peace, disarmament and effective arms control; and in the promotion of international consensus on major global political, economic and social issues.

10. To give weight and effectiveness to our commitments we intend to focus and improve Commonwealth co-operation in these areas. This would include strengthening the capacity of the Commonwealth to respond to requests from members for assistance in entrenching the practices of democracy, accountable administration and the rule of law.

11. We call on all the intergovernmental institutions of the Commonwealth to seize the opportunities presented by these challenges. We pledge ourselves to assist them to develop programmes which harness our shared historical, professional, cultural and linguistic heritage and which complement the work of other international and regional organisations.

12. We invite the Commonwealth Parliamentary Association and non-governmental Commonwealth organisations to play their full part in promoting these objectives, in a spirit of co-operation and mutual support.

13. In reaffirming the principles of the Commonwealth and in committing ourselves to pursue them in policy and action in response to the challenges of the 1990s, in areas where we believe that the Commonwealth has a distinctive contribution to offer, we the Heads of Government express our determination to renew and enhance the value and importance of the Commonwealth as an institution which can and should strengthen and enrich the lives not only of its own members and their peoples but also of the wider community of peoples of which they are a part.

ANNEX - B

THE DECLARATION OF COMMONWEALTH PRINCIPLES

When Commonwealth Heads of Government met in Singapore in January 1971 they agreed on a set of ideals which are subscribed to by all members and provide a basis for peace, understanding and goodwill among all mankind. They are expressed in the Declaration of Commonwealth Principles

The Commonwealth of Nations is a voluntary association of independent sovereign states, each responsible for its own policies, consulting and co-operating in the common interests of their peoples and in the promotion of international understanding and world peace.

Members of the Commonwealth come from territories in the six continents and five oceans, include peoples of different races, languages and religions, and display every stage of economic development from poor developing nations to wealthy industrialised nations. They encompass a rich variety of cultures, traditions and institutions.

Membership of the Commonwealth is compatible with the freedom of member governments to be non-aligned or to belong to any other grouping, association or alliance. Within this diversity all members of the Commonwealth hold certain principles in common. It is by pursuing these principles that the Commonwealth can continue to influence international society for the benefit of mankind.

We believe that international peace and order are essential to the security and prosperity of mankind; we therefore support the United Nations and seek to strengthen its influence for peace in the world, and its efforts to remove the causes of tension between nations.

We believe in the liberty of the individual, in equal rights for all citizens regardless of race, colour, creed or political belief, and in their inalienable right to participate by means of free and democratic political processes in framing the society in which they live. We therefore strive to promote in each of our countries those representative institutions and guarantees for personal freedom under the law that are our common heritage.

We recognise racial prejudice as a dangerous sickness threatening the healthy development of the human race and racial discrimination as an unmitigated evil of society. Each of us will vigorously combat this evil within our own nation. No country will afford to regimes which practise racial discrimination assistance which in its own judgement directly contributes to the pursuit or consolidation of this evil policy.

We oppose all forms of colonial domination and racial oppression and are committed to the principles of human dignity and equality. We will therefore use all our efforts to foster human equality and dignity everywhere, and to further the principles of self-determination and non-racialism.

We believe that the wide disparities in wealth now existing between different sections of mankind are too great to be tolerated. They also create world tensions. Our aim is their progressive removal. We therefore seek to use our efforts to overcome poverty, ignorance and disease, in raising standards of life and achieving a more equitable international society.

To this end our aim is to achieve the freest possible flow of international trade on terms fair and equitable to all, taking into account the special requirements of the developing countries, and to encourage the flow of adequate resources, including governmental and private resources, to the developing countries, bearing in mind the importance of doing this in a true spirit of partnership and of establishing for this purpose in the developing countries conditions which are conducive to sustained investment and growth.

We believe that international co-operation is essential to remove the causes of war, promote tolerance, combat injustice, and secure development among the peoples of the world. We are convinced that the Commonwealth is one of the most fruitful associations for these purposes.

In pursuing these principles the members of the Commonwealth believe that they can provide a constructive example of the multi-national approach which is vital to peace and progress in the modern world. The association is based on consultation, discussion and co-operation.

In rejecting coercion as an instrument of policy they recognise that the security of each member state from external aggression is a matter of concern to all members. It provides many channels for continuing exchanges of knowledge and views on professional, cultural, economic, legal and political issues among member states.

These relationships we intend to foster and extend, for we believe that our multi-national association can expand human understanding and understanding among nations, assist in the elimination of discrimination based on differences of race, colour or creed, maintain and strengthen personal liberty, contribute to the enrichment of life for all, and provide a powerful influence for peace among nations.

ANNEX - C

THE LUSAKA STATEMENT ON GOVERNMENT UNDER THE LAW

MEMBERS of the Government of the Republic of Zambia, the judiciary and the civil service, meeting in Lusaka on 15 October 1992 together with members of the legal profession, the media and the wider public [see pages 6-11 for details] at the conclusion of a three-day workshop organised by the Commonwealth Secretariat, adopted the following statement drawn up in the light of the proceedings at the workshop:

WE express our joint belief in the central place enjoyed by an independent, impartial and informed judiciary in the realisation of just, honest, open and accountable government. These are the hallmarks of the democratic society which our people are guaranteed by our Constitution, and which our people are entitled to expect.

WE believe that it is entirely consistent with best democratic practices for the actions of governments to be scrutinised by the courts at the instance of citizens, to ensure that decisions taken and administrative practices followed comply in all respects with the Constitution, with relevant statute and other law, and with best administrative practices - namely that administrative decisions be taken fairly, reasonably and according to law. In developing our jurisprudence in this area, the fundamental human rights provisions of our Constitution are of particular importance.

BY providing for judicial review of administrative action, the law provides not only a means for citizens to seek redress where they believe they have a grievance against official action, but also for them thereby actively to promote good administrative practice. In the non-judicial sphere the office of the Investigator-General also plays a most important role.

THE essential requirements of administrative law are that administrative action be confined to areas authorised by the law; that the rules of natural justice be followed; that each case be dealt with on its merits and without taking account of extraneous factors; that similar cases be treated in the same way; and that persons taking decisions should not have any personal or other interest in the outcome.

THE following principles reflect good administrative practice and in many instances are enforceable through the courts.

GUIDING PRINCIPLES

An administrative authority, when exercising a discretionary power should:

1. *pursue only the purposes for which the power has been conferred;*

2. *be without bias and observe objectivity and impartiality, taking into account only factors relevant to the particular case;*

3. *observe the principle of equality before the law by avoiding unfair discrimination;*

4. *maintain a proper balance between any adverse effects which its decision may have on the rights, liberties or interests of persons and the purpose which it pursues;*

5. *take decisions within a time which is reasonable having regard to the matters at stake;*

6. *apply any general administrative guidelines in a consistent manner while at the same time taking account of the particular circumstances of each case.*

Procedure

7. *Availability of guidelines: Any general administrative guidelines which govern the exercise of a discretionary power should either be made public or communicated (in an appropriate manner and to the extent necessary) to the person concerned, at his or her request, whether before or after the taking of an act concerning the person;*

8. *Right to be heard: In respect of any administrative act of such a nature as is likely to affect adversely his or her rights, liberties or interests, the person concerned should be entitled to put forward facts and arguments and, in appropriate cases, submit evidence which should be taken into account by the administrative authority; in appropriate cases the person concerned should be informed, in due time and in an appropriate manner, of these rights;*

9. *Access to information: Upon request, the person concerned should be informed, before an administrative act is taken and by appropriate means, of all factors relevant to the taking of that act;*

10. *Statement of reasons: Where an administrative act is of such a nature as to affect adversely the rights, liberties or interests of a person, the person concerned should be informed of the reasons on which it is based either by stating the reasons in the act itself or, upon request, by communicating them separately to the person concerned within a reasonable time;*

11. *Indication of remedies: Where an administrative act is given in writing and which adversely affects the rights, liberties or interests of the person concerned, it should indicate the specific remedies available to the person as well as any time-limits which may be involved.*

Review

12. *An act taken in exercise of a discretionary power should be subject to judicial review by a court or other competent body; however this does not exclude the possibility of a preliminary review by an administrative authority empowered to decide both on legality and on the merits;*

13. *Where no time limits for the taking of a decision in exercise of a discretionary power have been set by law and the administrative authority does not take its decision within a reasonable time, its failure to do so should be open to review by a competent authority;*

14. *A court or other independent body which controls the exercise of a discretionary power should possess such powers of obtaining information as are necessary for the proper exercise of its functions.*

Implementation

15. *In their implementation, the requirements of good and efficient administration, the legitimate interests of third parties and major public interests should be given due weight, but where these requirements make it necessary to modify these principles in particular cases or specific areas of public administration, every endeavour should be made to conform with these principles and to achieve the highest possible degree of fairness.*

ADMINISTRATIVE law in these and other ways provides a firm basis for the guidance of ministers of government and civil servants in the discharge of their duties. By upholding these principles, the judiciary serves the public interest, not only in specific cases but by providing both guidelines for future administration and remedies where these are appropriate and proper procedures have not been followed. There is thus a creative tension between two branches of government - the executive and the judiciary - which endures to the public benefit. While it lies to the government to make and execute policy, it rests with the judiciary to ensure that policies are both made and implemented within the parameters prescribed by our Constitution and by our country's laws, and for its decisions in these as in other matters to be respected.

HOWEVER the judiciary has a broader role than this. In a democracy, the people can exercise their franchise only periodically and are empowered to remove from office those who fail to honour the trust and responsibility reposed in them. On a daily basis, it falls to the judiciary no less than to members of the legislature to hold the executive accountable under the Rule of Law, and to ensure (on the people's behalf) that government takes place on a constitutional basis and under the law. This includes ensuring that minorities and minority interests are protected under the law, for although the government is chosen by the majority, it must, in a democracy, rule for all.

FOR such procedures to function properly it is essential that:

* the executive ensures that senior civil servants enjoy appropriate security of tenure and have a full appreciation of, and are encouraged to discharge, their own responsibilities for good administrative practice, and of the proper role of the judiciary;

* senior civil servants ensure that their own staff receive appropriate training and guidance in good administrative practice and the basic requirements of administrative law, so as to ensure that best administrative practice is followed and that the room for individual citizens to feel aggrieved is minimised;

* the judiciary be well-versed in the judicial review of administrative action (including, if need be, the establishment of a Division within the High Court comprising specialist judges) and be adequately resourced with up-to-date legal materials, including promptly produced Zambian law reports;

* the legal profession be equipped both through proper training in law faculties and through continuing legal education programmes to discharge their own vital function in preparing cases that should be brought before the courts for consideration;

* the general public be informed - and be kept informed - of their rights and of fact that the law can provide redress in cases of arbitrary, discriminatory and unfair administrative action by government, and be assured of appropriate access to legal aid; and

* the legal procedures for judicial review of administrative action be reviewed, and kept under regular review, to ensure that it meets the expectations of Zambian society and reflects best prevailing Commonwealth practices.

IT IS OUR belief that if the above programme of action can be implemented effectively, the quality of administration will be consistently improved and sustained, to the ultimate betterment of the lives of all our citizens. We therefore solemnly pledge ourselves to its fulfilment and urge others who may have a part to play to join us. Our people are entitled to no less.

Lusaka
Zambia
15 October 1992